

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION**

UNITED STATES OF AMERICA,	§	
	§	
Plaintiff/Respondent,	§	
	§	
V.	§	CR. No. C-01-221(3)
	§	C.A. No. C-07-260
WILLIAM DAVID HARBIN,	§	
	§	
Defendant/Movant.	§	

ORDER

Pending before the Court is Defendant William David Harbin's ("Harbin" or "Appellant") motion to proceed *in forma pauperis* on appeal from this Court's denial of his motion under 28 U.S.C. § 2255. (D.E. 138.) The application submitted by Harbin indicates that he has no assets and no income, other than an unspecified amount he receives from prison employment. He has also provided a printout of information concerning his prison account and a certificate from an authorized officer at his place of incarceration. Those documents indicate that, at the time of his application, he had a balance of \$50.81 in his account, that his average balance over the six months preceding his application was \$185.10,¹ and that average monthly deposits to his account were \$116.50.

The foregoing information demonstrates that although Appellant cannot afford to prepay the \$455 appellate filing fee, he can pay the fee in installments without undue hardship. While his appeal is not governed by the Prison Litigation Reform Act, there is no prohibition against collection of the appellate filing fee in installments where an inmate has the ability to pay in installments without undue

¹ Although on the first page of the certificate, the prison official states that Harbin's average balance was \$359.05, the second page of the signed certificate indicates that it was \$185.10, which is also consistent with the computer printout of account information. (Compare D.E. 138 at 2 with D.E. 138 at 3, 4.)

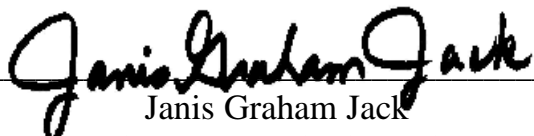
hardship. Accordingly, Appellant's motion to proceed *in forma pauperis* (D.E. 138) is GRANTED and the following orders are entered:

1. The Clerk shall file the Appellant's notice of appeal without prepayment of the appellate filing fee.
2. The Appellant is not required to pay an initial partial appellate filing fee.
3. The Appellant shall pay \$455, the full appellate filing fee, in monthly installments to the United States District Court.
4. The Bureau of Prisons shall deduct 20% of each deposit made to the Appellant's inmate trust account and forward payments to the United States District Court on a regular basis provided the account exceeds \$10.00.
5. The Appellant shall execute all consents and other documents required by the agency having custody of the Appellant to authorize the necessary withdrawals from his trust account.
6. The Clerk shall send a copy of this Order to the Inmate Accounting Officer and Paralegal Specialist, FCI Fort Worth, 3150 Horton Road, Fort Worth, TX 76119.

NOTICE TO THE APPELLANT:

If you do not wish to pay the appellate filing fee as set forth in this Order, you must notify the Court in writing, by letter or motion, that you do not wish to prosecute the appeal. Your notice must be mailed within 30 days of the date of this Order.

It is ORDERED this 26th day of October, 2007.


Janis Graham Jack
United States District Judge